

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DUANE YOUNG,

Petitioner,

CASE NO. 2:06-cv-0187

JUDGE FROST

MAGISTRATE JUDGE KEMP

v.

ROB JEFFREYS, Warden,

Respondent.

OPINION AND ORDER

On December 17, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one-year statute of limitations under 28 U.S.C. §2244(d). Doc. No. 17. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Doc. No. 21.

Petitioner objects to dismissal of his habeas corpus petition as time-barred. He again argues that this action is timely because he filed a motion for delayed appeal approximately four years after he was sentenced, and because he raises a claim under *Blakely v. Washington*, 542 U.S. 296 (2004). Petitioner also again argues that the respondent should be required to address the merits of his claims under Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* objected to by petitioner. For the reasons discussed at length in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. As noted by the Magistrate Judge, petitioner's conviction became final on January 14, 2001. He waited until March 13, 2006, to file his habeas corpus petition. Further, he has failed to allege any extraordinary circumstances to justify equitable tolling of the statute of limitations. *See King v. Bell*,

378 F.3d 550, 553 (6th Cir. 2004).

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED** as untimely.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
United States District Judge